

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ORLANDO HERNANDEZ)	
ID # 126-067655,)	
)	
Petitioner,)	
)	
v.)	
)	
JOHNSON COUNTY CORRECTIONAL)	
CENTER,)	
)	
Respondent.)	Civil Action No. 3:16-CV-2241-C-BH

ORDER

In the Report and Recommendation filed October 11, 2016, the Magistrate Judge recommended that the Court dismiss Petitioner's habeas corpus petition without prejudice for failure to exhaust state court remedies. Petitioner failed to file a timely objection to the Report and Recommendation.

After reviewing the well-reasoned Report and Recommendation for plain error, the Court finds that the findings and conclusions of the Magistrate Judge are correct and adopts them as the findings and conclusions of the Court.

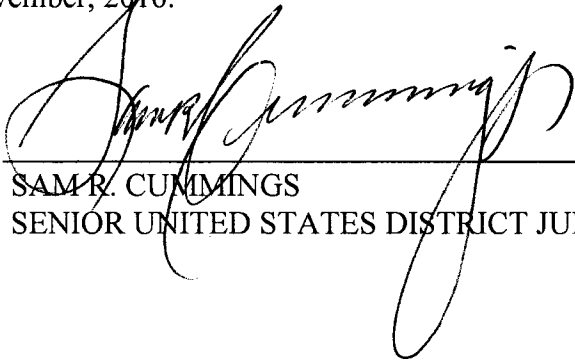
Accordingly, the petition filed under 28 U.S.C. § 2241 is **DISMISSED WITHOUT PREJUDICE** for failure to properly exhaust state court remedies.

In accordance with Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c) and after considering the record in this case and recommendation of the Magistrate Judge, Petitioner is **DENIED** a Certificate of Appealability. The Court adopts and incorporates by reference the Magistrate

Judge's Findings, Conclusions and Recommendation in support of its findings that the Petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong" or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If the Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* and a properly signed certificate of inmate trust account.

SO ORDERED this 17th day of November, 2016.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE